

## *Trade Negotiations and Pro-poor Services Reforms in Africa*

**Hotel Africana, Kampala, Uganda – 4-8 February 2008**

### **Summary Meeting Report<sup>1</sup>**

#### **Introduction**

Trade in services is a dynamic area of international trade, offering developing and least developed countries significant opportunities – both in terms of increased exports particularly in tourism, ICT-enabled services and movement of labour; and imports aiming at lowering costs across a range of core infrastructure services, such as telecommunications, transport, energy, and financial services. Aside from the fundamental contribution increased services trade can make to alleviating poverty, many countries in Africa have signed onto interim Economic Partnership Agreements (EPA) that set a timeline for negotiating possible services commitments between end-2008 and mid-2009. This is in addition to ongoing work at the World Trade Organisation (WTO), which could see attention quickly shift to services if the deadlock in agriculture and manufactured goods can be broken. In light of this, the likely pressures coming to bear on African countries to undertake services commitments throughout 2008 will be high. It is in this context that ILEAP held the Kampala meeting on *Trade Negotiations and Pro-poor Services Reforms in Africa*.

#### **Objectives**

The meeting set out three objectives, against which this report is prepared.

The *first objective* was to enable an informed understanding of the issues surrounding services liberalisation, negotiations and pro-poor services reforms, including key challenges and opportunities, as well as a possible way forward in 2008.

In this context, participants engaged in a debate on the issue of mandates. At the multilateral level, it was noted that while the area of services was a keen demand from LDCs, the potential impact of the Hong Kong mandate that these countries “are not expected to undertake new commitments” may have contributed to these countries being ignored (intentionally or otherwise) in the WTO GATS negotiations. On EPAs, it was recalled that Africa was facing a relatively narrow mandate on the Commission side and that this would need to be better accounted for if the regional negotiations were to be successful. This included determining offensive interests beyond tourism and mode 4. It was understood that resolving such matters would require a combination of economic, legal, and political efforts from African policymakers.

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<sup>1</sup> This Report has been approved by the Workshop Steering Committee, comprising Peter Elimu (Chairperson), Dominique Njinkeu (Secretary), Beatrice Dove-Edwin, Elijay Manyara, Flora Musonda, Valerie Ongolo and Edward Sungula, supported by Sékou Falil Doumbouya and David Primack. A more detailed workshop report is forthcoming. Meeting documentation, including a list of participants and presentations, are available online at [www.ileap-jeicp.org](http://www.ileap-jeicp.org).

One of the key challenges for African countries to address is finding a balance between the iterative learning process of improving regulatory outcomes and making effective use of liberalisation commitment without unduly circumscribing policy space for future regulatory reforms. In this sense participants noted the need to have a particular focus on regulatory reform prior to undertaking commitments, and that this would entail an exploration of how much policy space would be required and, perhaps most importantly, how this flexibility could be used and how it might impact poverty. Participants also reviewed the extent of gaps between existing WTO services commitments and the state of reforms in selected sectors, noting that possible future commitments should better take into account best practices and successful reforms already achieved as part of the domestic agenda. Options could entail binding at the level of current reforms (status quo) or below status quo, should it be deemed appropriate. The latter would be akin to the practice under GATT whereby there exists some 'water' between the legal obligation and existing practice (i.e. bound vs. applied tariffs). On the other hand, participants also agreed on the need to consider circumstances where obligations (via pre-commitments) could be utilised to engineer sought after reforms that may otherwise be politically challenging to elicit.

In determining how to proceed with services negotiations in both the GATS and EPAs, discussions consistently underscored the centrality of the regional context, highlighting the foundation which regional integration needed to play to support other bilateral and multilateral processes. On this, it was stressed that there was a great deal of work to be accomplished first at home in the various African regions.

In the context of trade (and investment) in services under the EPAs, four choices were touched upon. These entailed doing nothing, providing for general cooperation, reaffirming GATS commitments (with additional development assistance), or undertaking broader services liberalisation commitments. While reasonable questions may persist on the judiciousness of undertaking services commitments in the EPA, the meeting coalesced around the position that a political commitment had been signed in the interim EPAs to work towards such an outcome. As a result preparatory work was required to help make an informed decision. Participants agreed that it would be most prudent to work on the assumption that technical preparations needed to be completed by mid-2008 to prevent a repeat of the hastily finalised interim arrangements at the end of 2007. It was also highlighted that such work would not be exclusive to the EPA, and should feed the WTO services discussions, helping to ensure coherence between these various negotiated commitments and domestic policy objectives. To that effect, it was emphasized that undergoing an effective process of preparing for services negotiations in the EPA and WTO, even if not leading to eventual negotiated commitments, opened a healthy space to discuss potential domestic reforms.

The Caribbean experience with services in EPAs served as key comparison point throughout the workshop. In that regard, it was demonstrated that the process of preparations is equally as important as the substance and that much regional negotiation would likely precede that with the EC. It was underlined however that there was no pattern for Africa to follow on per se, only lessons to feed into the African regional context, including on architectural matters. Similarly, the importance of a good understanding of the multiple services markets in the EU was stressed, as was a proper accounting of what the EC was actually offering in terms of additional market access in the EPA as compared to the Doha negotiations. Participants wondered if it would not be appropriate, given the capacity constraints in Africa, to use the same format for scheduling commitments in the EPA and WTO.

In terms of moving ahead, it was widely acknowledged that African countries require evidence-based knowledge at national and regional levels on services trade and the role of services in broader development strategies. The role of domestic regulatory reforms and needed complementary measures to help catalyze intended benefits from services reforms were also strong themes in the discussions. Engaging all relevant stakeholders, particularly the private sector and civil society, both in the formulation and implementation of policy was considered essential.

The *second objective* of the workshop was to understand, in more specific terms, interventions that might be needed in order to prepare at the sectoral level. While a range of issues were raised, it was agreed that attention should be focussed on trade-related aspects rather than attempt to consider all issues for the sectors of interest. For example, health or education should be considered to the extent that one believes the trade aspects are relevant. Participants noted that some of the most pressing issues were legal ones and in particular to better understand the domestic landscape in terms of the state of regulatory provisions and practices. The undertaking of policy and regulatory audits, it was suggested, would thus help document regulatory measures that limit market access and/or discriminate against foreign services or service suppliers and that may be inconsistent with GATS provisions on market access and national treatment, or that may not be helping achieve the intended policy objective. Such a review of policy and regulatory measures would help inform possible limitations to include in a schedule and/or amendments to domestic laws and regulations.<sup>2</sup> Such audits could then serve as a reference for policy-makers and negotiators to undertake informed decisions on both possible services reforms and offers (under either the WTO or the EPA).

A multi-part work programme was discussed, combining fact-finding, research and analysis, training, and assistance with the decision-making process. This would commence with the aforementioned audits in selected sectors in specific countries and/or regions. The information collected in this context would then be ‘translated’ into GATS-type language, while maintaining a format that decision-makers could understand and use to conduct stakeholder consultations. Participants stressed the dual need for convening national workshops and training of decision-makers on the issues. They also highlighted that there were important procedural lessons to be learned in terms of undertaking such consultations, including the engagement of the public to generate broad-based support for decisions. The above, it was noted, could be undertaken by ILEAP or other trade capacity building/research institutions.

Once such work was completed, options could be introduced into formal decision-making processes at both the national and regional levels. In this regard, questions still requiring attention include the status and adequacy of existing work in relevant sectors and countries, as well as the sectoral coverage of future audits. How to address matters more conducive to the regional rather than national context was also raised, as was the need for targeted research and training to ensure national and regional stakeholders had sufficient evidence-based information to make informed decisions.

The *third objective* of the workshop pressed trade and sectoral officials and experts to look beyond mercantilist tendencies and consider ways of ensuring that any reforms underpinning liberalisation had an adequate pro-poor focus. As a matter of course, it was agreed that engaging those most

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<sup>2</sup> As a matter of principle, such work should also ensure no existing measures are MFN-inconsistent.

affected by a decision was an important starting point, as was ensuring that any commitments which could increase hardships for the poor were phased-in over time to allow for compensatory measures. Universal service and/or universal access provisions were highlighted as key pro-poor mechanisms however it was stressed that they were not the only dimension to be considered. The impact of services reforms on the cost of production and lowering prices paid by consumers for key services was also discussed, though it was emphasized that for such liberalisation and reforms to have a direct impact on the lives of the poor, there also needed to be a link to job creation.

This view underscores the importance of complementary measures focussed on building services supply capacities and related human resource development. Indeed it was noted that in many circumstances, it was these complementary policies to support liberalisation that carried a greater impact than the liberalisation policy itself. Participants resoundingly supported a targeted effort on trade in services under the 'Aid for Trade' umbrella as well as more general aid for trade discussions, such as those in EPAs or the EDF. In this regard, the importance of developing and/or refining a prioritised list of complementary services interventions was supported, as was discussing these with local donor offices. Careful not to 're-invent the wheel' however, participants noted that in many cases there were already such prioritised lists, with the main impediment for implementation being one of availability and/or accessibility of adequate resources. A concern was raised however that in some situations, assessments such as the DTIS had paid inadequate attention to services (especially outside of the tourism sector). Thus the need to better account for trade in services in national development strategies and trade-related assessments was emphasized, as was the need to identify mechanisms for addressing regional issues not captured in the national assessment context. To help lay out a way forward on these issues, the workshop put together a small task force that offered recommendations on how an aid for trade in services component could be structured and could complement efforts towards the preparation of negotiated commitments.

### **Workshop evaluation:**

The workshop was attended by 65 participants – including government officials, members of regional economic communities (RECs), researchers, representatives from the private sector, civil society and the donor community (list available at [www.ileap-jeicp.org](http://www.ileap-jeicp.org)). Such actors are instrumental in the articulation and implementation of services reforms and liberalisation, with a recognised need to coordinate activities at the national and regional level.

The majority of participants were representatives of sample countries in Central, East, Southern and West Africa including Burundi, Cameroon, Central African Republic, (Republic of) Congo, Ghana, Kenya, Nigeria, Rwanda, Senegal, Sierra Leone, Swaziland, Tanzania, and Uganda. Representatives from RECs included CEMAC, CRNM, EAC and ECOWAS.<sup>3</sup> The following ILEAP partners, including donors, were also represented: Department for International Development UK (DFID); GTZ German Technical Cooperation; International Centre for Trade and Sustainable Development (ICTSD); Netherlands Ministry of Foreign Affairs; Overseas Development Institute (ODI); Quakers United Nations Office in Geneva (QUNO); SOMO; South Centre; SEATINI; Trade Law Centre for Southern Africa (TRALAC); Trade Policy Research and Training Programme (TPRTP); UNCTAD; UNDP Regional Service Centre and the WTO.

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<sup>3</sup> While the UEMOA delegation was stranded en route, their views were taken into account in preparing this report.

Initial analysis of the responses from the evaluation questionnaires (Annex 1 below) demonstrates that in general:

- Participant knowledge of the subject area had increased by the end of the workshop;
- At least 94% of respondents found the workshop to be ‘very relevant’ or ‘entirely relevant’ to their current work or functions, with 97% finding it useful to their overall professional work;
- 82% found the format of the workshop to be ‘very effective’ or ‘entirely effective’; and
- All respondents considered the workshop an important opportunity to create and develop useful networks.

In terms of the various workshop and sectoral sessions, 70% of respondents on average found these ‘very’ or ‘entirely’ relevant. The most widely-raised concern (in both formal and informal evaluations submitted) was the density of the agenda, which often precluded adequate time for discussions. In that the workshop was also intended to help refine a methodology, this will be addressed in future activities.

### **Way Forward**

As discussed with participants, and alluded to above, the process of moving forward entails African governments determining, whether and how they might like to proceed along the lines of the methodology elaborated at the workshop. This would involve an initial scoping exercise to determine the extent and quality of existing work, so as to ensure future preparation built on existing investments. This would be followed by the commissioning of additional research and analysis to fill prevailing gaps, including if required, a policy and regulatory audit. Keeping in mind the assumption around the necessity of such technical work being completed by mid-2008 to feed into decision-making and/or negotiating processes, an appropriate timeline would need to be developed, including the provision of national and/or regional stakeholder consultations. Outstanding questions regarding sectoral coverage of the audits, as well as the modalities for undertaking this work strictly at a national level and/or making provision for regional activities would also require immediate attention.

Participants urged ILEAP to take the lead and mobilize other institutions to ensure such a work programme is implemented in the above timeline. Initial indications from the EAC, CEMAC and UEMOA Secretariats imply a keen interest to commence this work immediately.

In summary participants recommended that:

- Work be initiated as soon as possible and completed by mid-2008, in advance of negotiations on possible EPA chapters on trade in services and investment;
- Regulatory and policy audits be undertaken, where required, in each African region;
- A trade in services-specific aid for trade work programme would be useful to ensure the benefits of services liberalization lead to poverty alleviation;
- A review of opportunities and constraints facing African services exporters in key OECD markets be undertaken; and
- ILEAP should assist in implementing the above recommendations.

### ANNEX 1 – General feedback

Answers are based on evaluation forms (% of respondents). Each aspect of the activity was rated on a scale of 1 to 5, where 1 is the minimum and 5 is the maximum.

|  | <b>Not relevant<br/>1/5</b> | <b>2/5</b> | <b>3/5</b> | <b>4/5</b> | <b>Entirely relevant<br/>5/5</b> | <b>No opinion</b> |
|--|-----------------------------|------------|------------|------------|----------------------------------|-------------------|
| Level of knowledge of subject area addressed by the workshop before the meeting        | 6%                          | 25%        | 31%        | 28%        | 9%                               | 0%                |
| Level of knowledge of subject area addressed by the workshop at the end of the meeting | 0%                          | 0%         | 22%        | 38%        | 41%                              | 0%                |
| Relevance of this workshop to your current work or functions                           | 0%                          | 0%         | 6%         | 19%        | 75%                              | 0%                |
| Effectiveness of the workshop format   | 0%                          | 3%         | 16%        | 66%        | 16%                              | 0%                |
| Value of the workshop as an opportunity to create and develop useful networks          | 0%                          | 0%         | 3%         | 38%        | 59%                              | 0%                |
| Overall usefulness of the workshop in your professional work                           | 0%                          | 0%         | 3%         | 44%        | 53%                              | 0%                |
| Usefulness of Session I: State of Play on Trade in Services                            | 0%                          | 0%         | 22%        | 44%        | 31%                              | 3%                |
| Usefulness of Session II: Advancing EPA trade in services negotiations                 | 0%                          | 3%         | 25%        | 44%        | 28%                              | 0%                |
| Usefulness of Session III: Status of services preparations in African EPA regions      | 0%                          | 3%         | 41%        | 25%        | 31%                              | 0%                |
| Usefulness of Session IV: Linking regulatory frameworks with services liberalization   | 0%                          | 0%         | 16%        | 44%        | 38%                              | 3%                |
| Usefulness of Session V: Multilateral dimension of rules on domestic regulation        | 0%                          | 0%         | 28%        | 44%        | 28%                              | 0%                |
| Usefulness of Session VI (a): Sectoral Review and Analysis                             | 0%                          | 0%         | 19%        | 50%        | 25%                              | 6%                |
| Usefulness of Session VI (b): Telecommunications and ICT                               | 0%                          | 0%         | 16%        | 50%        | 31%                              | 3%                |
| Usefulness of Session VI (c): Financial services                                       | 0%                          | 0%         | 25%        | 34%        | 34%                              | 6%                |
| Usefulness of Session VI (d): Professional services                                    | 0%                          | 0%         | 38%        | 28%        | 31%                              | 3%                |
| Usefulness of Session VI (e): Tourism  | 0%                          | 0%         | 25%        | 41%        | 28%                              | 6%                |
| Usefulness of Session VI (f): Movement of natural persons                              | 0%                          | 0%         | 25%        | 25%        | 41%                              | 9%                |
| Usefulness of Session VI (g): Transportation   | 0%                          | 3%         | 25%        | 41%        | 31%                              | 0%                |
| Usefulness of Session VII: Mechanisms for effective participation                      | 0%                          | 0%         | 22%        | 38%        | 22%                              | 19%               |